

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ALVIN DEAN BRUTON, SR.

Plaintiff,

v.

CIV 11-0330 WJ/KBM

UNITED STATES OF AMERICA, *et al.*,

Defendants.

ORDER APPOINTING 706 EXPERT

THIS MATTER is before the Court on the Notice of Expert Nominations of medical doctors for consideration as appointment as the Court Expert pursuant to Federal Rule of Evidence 706. The Government advises that Plaintiff agrees to the nominees, and the Court has given due consideration to both nominees' extensive education and experience in the area of psychiatry with special expertise in medications used to treat psychiatric patients. Being fully advised in the premises,

IT IS ORDERED that Dr. Jan Fawcett is appointed as the Court Expert in this matter and the Government shall provide him as soon as possible with a copy of this Order. Within fourteen (14) days of the entry of this Order, the Government shall arrange for Dr. Fawcett and the Plaintiff to receive copies of the medical records generated during Mr. Bruton's medical care at the Veteran Affairs Hospital in Albuquerque, New Mexico in October and November 2008. Dr. Fawcett shall prepare a report for the Court regarding the care received by Plaintiff Alvin Dean Bruton, Sr., and specifically opine whether as a matter of reasonable medical probability: (1) the VA provided medical treatment in accordance with the standard of care, specifically with regard to the administration of psychiatric medications; (2) if not, was any injury suffered by Mr. Bruton foreseeable from breach of the standard of care; and (3) was any injury in fact caused by the breach in the duty of standard of care.

IT IS FURTHER ORDERED that upon receipt of the medical records, Dr. Fawcett is to contact my chambers to advise of when he anticipates his report will be completed and indicate if he needs further information for preparation of his report and identify those materials. Both parties may also provide to Dr. Fawcett *in writing* any other information they wish him to consider in preparing his report within fourteen (14) days of the entry of this Order. Upon completion of the expert report, Dr. Fawcett is to send the report to my chambers, and I will file the report under a security level which provides access only to the parties. Both parties will have fourteen (14) days to file any comments on the report if desired.

IT IS FURTHER ORDERED that the cost of Dr. Fawcett's report is not to exceed \$2,500 without a showing of necessity and prior authorization by the Court, said cost to be borne by the United States of America.

IT IS ALSO ORDERED that Plaintiff's Motion to Subpoena Medical Records and for Conference with the Expert (*Doc. 55*) will be denied at this time given the procedures set forth above.



CHIEF UNITED STATES MAGISTRATE JUDGE